

## REMARKS

Favorable reconsideration and allowance of this application are requested.

As a procedural note, the present amendment is being filed concurrently with a formal Request for Continued Examination (RCE) under 37 CFR §1.114. Accordingly withdrawal of the "finality" of the July 21, 2006 Official Action is in order so as to allow entry and consideration of the amendments and remarks presented herewith.

### I. Discussion of Amendments

By way of the amendment instructions above, an amended version of the title has been presented which conforms to the Examiner's helpful suggestions for the same.<sup>1</sup>

Independent claims 1 and 26 have been amended so as to emphasize that the filter surface is **perforated**. (Page 11, lines 22-23) In addition, these claims have been clarified to emphasize that **no permanent precoat pulp layer forms on the perforated filter surface** by virtue of the cleaning member pushing the layer of the thickened pulp toward the discharge while wiping clean a portion of the perforated filter surface therebehind. (Page 10, lines 9-10 ("*...open filter surface is left behind the screw....*"), page 12, lines 15-16 ("*...filter surface is aided to keep open...by means of a mechanical member....*"), Page 12, line 12 ("*...thread/s wipe/s away the thickened pulp from the filter surface....*"), and page 12, lines 23-25 ("*...the screw rotates so that it prevents the formation of a permanent pulp layer, a so-called precoat, on the filter surface 22.*")

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<sup>1</sup> Applicants are perplexed that this requirement was restated in the Official Action dated July 21, 2006 since the same amended title was presented on page 2 of the applicants' "Amendment 4" dated May 4, 2006. In any event, so the applicants may be deemed to be fully responsive to the July 21, 2006 Official Action, the amended title is being re-presented here in the event the Office has misplaced or overlooked the previous amendment instruction of May 4, 2006.

Claims 5 and 6 have been amended in the manner helpful suggested by the Examiner.

Claim 7 has been amended so as to clarify that the rotatable screw has a selected screw pitch and that the screw is rotated at a selected rotational speed so that the selected rotational speed and pitch of the screw establish a flow speed of the layer of the thickened pulp being pushed thereby and a flow speed of the non-thickened pulp which are essentially the same at the discharge end of the apparatus. The amendments to claim 7 thus conform its language to the description in the originally filed specification at page 13, lines 20-28.

Claim 15 has been amended so as to clarify that the thickening of the pulp is controlled in response to "pulp consistency information" obtained from a previous or later process stage. Support for such amendment can be found in the originally filed specification at page 15, lines 6-7 ("*...In one application this kind of system gets additional information e.g. from the consistency regulation of the knotters.*")

As will become evident from the following discussion, all claims now pending herein are unquestionably allowable over the applied references of record.

## **II. Response to 35 USC §112 Issues**

The amendments to the claims above are believed to address all of the Examiner's rejections advanced under 35 USC §112, first and second paragraphs.

In addition, in response to the Examiner finding no reference in the specification to "regulating the flow of incoming pulp", the specification at page 14, line 30 has been revised so as to insert a new paragraph based on the originally filed claim 9. Specifically, the specification has been revised so as to provide basis for controlling the thickening of the pulp with valves regulating the flow of incoming pulp, filtrate and/or the thickened material. Of course, no question of "new matter" within the purview of 35

USC §132 has been presented by the specification amendment since an originally presented claim (in this case claim 9) constitutes its own "disclosure".

### III. Response to 35 USC §103(a) Issues

The Examiner persists in his rejection of the claims based principally on the combination of Reinhall and Gervai. Lyengar, Smook and Henricson et al have been applied as secondary references in various combinations to such principal combination to separately reject the remaining dependent claims.

Applicants again emphatically disagree with the Examiner's characterization of the primary references. Indeed, applicants suggest that a proper review of the references as mandated by 35 USC §103(a) indicates that Reinhall and Gervasi are not combinable in the first instance for the reasons already of record (which reasons are expressly incorporated hereinto by reference) and further clarified below.

In this regard, in response to the Examiner's comments that the then pending claims do not exclude a precoat layer on the filter surface from forming, the independent claims have been amended so as to recite not only that a permanent precoat pulp layer is *not* formed on the *perforated filter surface* but also that it is wiped by the cleaning member so as to provide an *open portion* of the filter surface therebehind on which additional unthickened pulp may be deposited.

As noted previously during prosecution, the Gervasi filter apparatus *necessarily* depends on a permanent precoat formed on the filter surface. The Examiner asserts in this regard that the thickness of the Gervasi filter cake may be adjusted to essentially zero. Applicants most strongly disagree with such a characterization since it is based

**not** on Gervasi's disclosure, but instead is based on erroneous Examiner speculation which has uniformly been condemned by the reviewing Courts.<sup>2</sup>

More specifically, Gervasi clearly discloses that a filtration layer is **always** maintained at a constant thickness sufficient to obtain the required degree of turbid liquid clarification by the continuous or substantially continuous removal of the solid successively deposited on the basic filtration layer (filter cake). (See column 2, lines 28-54, column 3, lines 26-35.) It is also claimed by Gervasi that there is "filter means carried on the inner surface of the inner casing" This clearly indicates that there always must be a filter cake in the Gervasi filter – i.e., the filter cake in Gervasi most certainly cannot be zero as asserted by the Examiner.

At the bottom of page 7 of the July 21, 2006 Official Action, the Examiner contends that Reinhall and Gervasi are analogous since both of them would remove material from the filter surface. However, as discussed above, Reinhall removes the entire cake from the inner surface of the perforated wall of the cylindrical container 14 – Gervaise does not. Gervaise actually maintains a filter cake "precoat" having a certain thickness on the filter surface. In Reinhall there are scraping blades attached to a shaft, and thus **no space between the shaft and the blade** (cleaning member) exists. In this case, one of ordinary skill in the art would not replace the blades with an open screw, but instead would be directed to a closed screw – i.e., the thread is fastened directly to a shaft core.

Therefore, applicants again emphatically dispute a conclusion that one skilled in the art would combine the Reinhall and Gervasi references as the Examiner has done. Specifically, those skilled in the art would clearly recognize simply because a "cleaning member" may be employed in both Reinhall and Gervasi, there are unmistakable technical issues that would preclude a skilled person from reaching a conclusion that

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<sup>2</sup> See, *In re Katzaschmann*, 146 USPQ 66 (CCPA 1965).

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the "cleaning member" of one is equivalent to the "cleaning member" of the other. Such a picking and choosing of features among the prior art references without regard to technical evidence precluding combination is therefore not based on a proper analysis under 35 USC §103(a), but instead appears to be based on an impermissible hindsight analysis.<sup>3</sup>

Therefore, in view of the comments above, it should now be evident that the combination of Reinhall and Gervasi is inappropriate against the presently pending claims. In addition, the secondary references applied by the Examiner to allegedly show various claimed features fail to cure the deficiencies of Reinhall and Gervasi. Thus, independent claims 1 and 26, and all claims dependent therefrom are in condition for allowance.

A favorable reply on the merits is therefore awaited.

Respectfully submitted,

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<sup>3</sup> The Federal Circuit regards hindsight as an insidious and powerful phenomenon and is a tempting, but forbidden zone in the inquiry of addressing the statutory obviousness standard. *See, e.g., Panduit Corp. v. Dennison Mfg. Co.*, 227 USPQ 337 (Fed. Cir. 1985) and *Loctite Corp. v. Ultraseal Ltd.*, 228 USPQ 90, 98 (Fed. Cir. 1985).